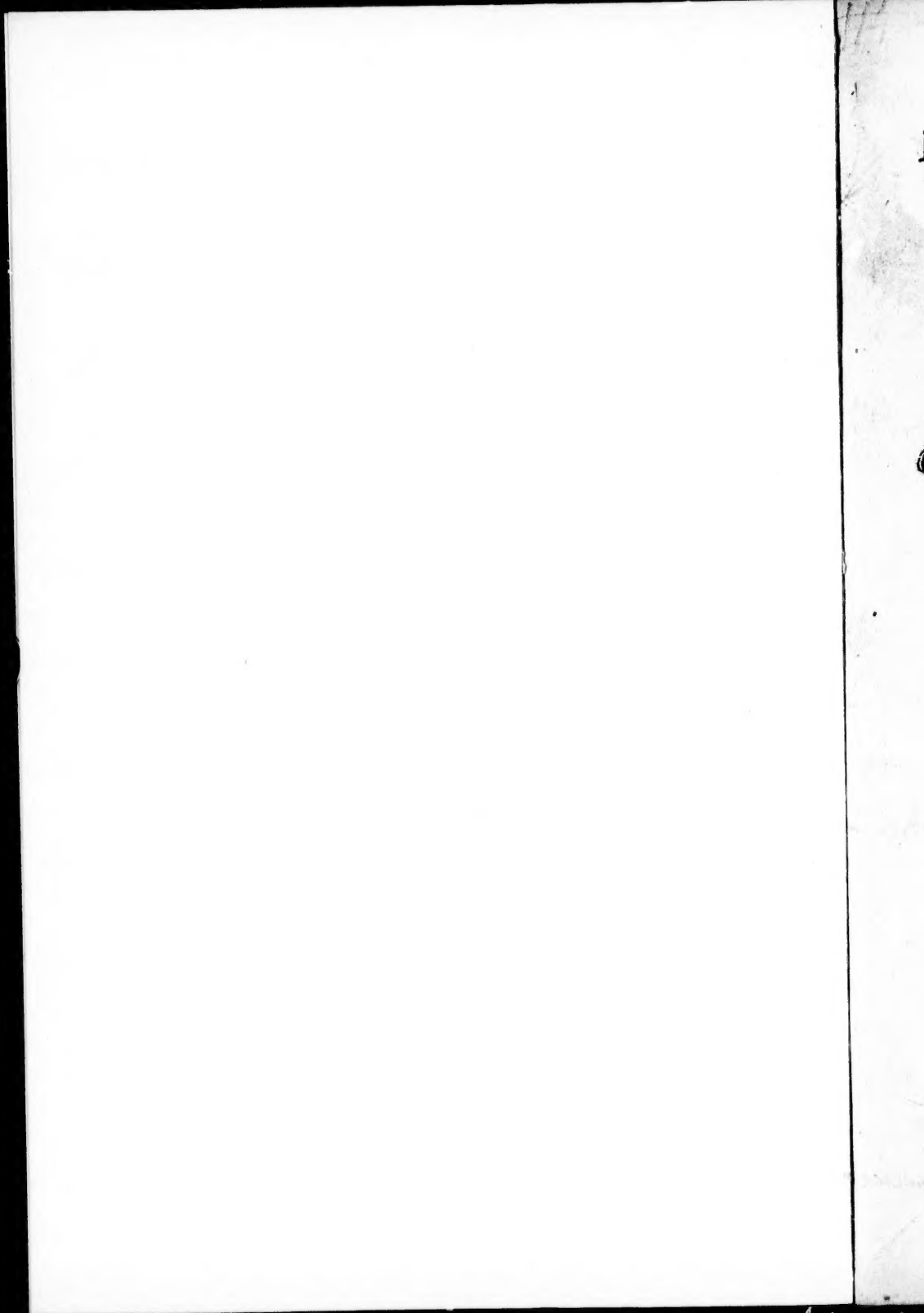




Wm. J. Tassier

RULES AND ORDERS
OF PRACTICE
IN THE
PROVINCIAL
COURT OF APPEALS.



SECOND EDITION.

LOWER-CANADA,
QUEBEC:

PRINTED BY P. E. DESBARATS, LAW PRINTER TO THE KING'S
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I N D E X.

- I. Court to be opened at 10 o'clock.
- II. King's Counsel, &c. to be habited in black, &c.
- III. Office of the Clerk to be kept in the Court House of Quebec, records not to be thence removed without order.
- IV. Office hours appointed. Attendance to be given and Attorneys, &c. to have free access to the records during office hours.
- V. Schedule of Suits to be kept by the Clerk and laid before the Court on the first day of each term.
- VI. Every Attorney to file an Entry of his name and place of abode. Penalty for neglect, service of rules, &c. at such place of abode when sufficient.
- VII. Attorneys resident out of the limits of Quebec to constitute Agents. Penalty for neglect, Service of Rules, &c. on Agents when sufficient.
- VIII. Postage of the record to be deposited upon issuing the writ, in Appeals from Montreal and Three Rivers.
- IX. Writs of Appeals when to be tested.
- X. Prothonotaries neglecting, or refusing without lawful cause to return writs of Appeal, guilty of Contempt.
- XI. Writ of Appeal, not to issue without an appearance for the appellant and a præcipe.
- XII. Every Writ of Appeal to be signed by the Attorney for the Appellant or his Agent.
- XIII. What service of a Writ of Appeal shall be sufficient.
- XIV. Papers composing a record to be numbered and accompanied with an Index.
- XV. Appearance for the respondent, when to be fyled. Penalty for neglect.
- XVI. Reasons of Appeal when to be fyled if demanded. Penalty for neglect.
- XVII. Reasons of Appeal when to be fyled, if not demanded. Penalty for neglect.
- XVIII. Answers when to be fyled, if demanded. Penalty for neglect. Issue how completed.
- XIX. Answers when to be fyled, if not demanded. Penalty for neglect.
- XX. Copies of all pleadings to be served. Penalty for neglect.
- XXI. Cases where and when to be fyled. Penalty for neglect.
- XXII. Appeals when to be set down for hearing upon issue joined, by the parties.
- XXIII. Appeals when to be set down for hearing ex parte by the Appellant.
- XXIV. Appeals when to be set down for hearing by the Court.
- XXV. Order of hearing for causes set down to be heard.
- XXVI. Course to be pursued when the appellant and respondent respectively do not appear on the day fixed for the hearing or are not then ready to proceed.
- XXVII. Counsel how many may be heard.
- XXVIII. Motions upon special matter not appearing on the record, to be founded on Affidavit, and two days notice.

I N D E X .

XXX. All facts essential to the support of the motions upon complaints of diminution, &c. to be authenticated by affidavit, two days notice of such motions to be given, and no such motion to be received after the filing of the reasons or answers respectively unless the right to make such motion be therein reserved.

XXX. Every motion for an Appeal from an interlocutory judgment to be accompanied with copies of the pleadings and of all exhibits and proceedings essential to the support of the motion.

Such motions when to be made.

XXXI. Every writ of appeal from an interlocutory judgment to be issued within two days after the allowance thereof.

XXXII. Pleadings, notices, &c. how to be served.

XXXIII. Delay, &c. how to be computed.

XXXIV. Copies of judgments in appeal to be transmitted with the record to the Court below.

XXXV. These rules extend to all suits in Error.

XXXVI. Fees to be allowed to Counsel, &c.

XXXVII. Former rules of practice rescinded.

PROVINCE OF }
LOWER-CANADA. }

IN the Provincial Court of Appeals of the Term of January, in the forty-ninth year of the Reign of Our Sovereign LORD GEORGE the THIRD, by the grace of GOD, of the United Kingdom of Great Britain and Ireland, KING, Defender of the Faith.

THURSDAY, 19th JANUARY.

PRESENT,

The Honorable JONATHAN SEWELL, Chief Justice of the Province,

The Honorable and Right Rev. the LORD BISHOP OF QUEBEC,

The Honorable JAMES MONK, Chief Justice of the Court of King's Bench for the District of Montreal,

The Hon. THOMAS DUNN,
FRANCIS BABY,
JAMES MCGILL,
JOHN YOUNG,

JENKIN WILLIAMS,
P. LOUIS PANET,
P. AMABLE DEBONNE,
JOHN RICHARDSON.

WHEREAS in and by the Ordinance made and passed in the twenty-seventh year of the reign of our said Sovereign Lord GEORGE the THIRD, intituled "An Ordinance to continue in force for a limited time an Ordinance made in the twenty-fifth year of his Majesty's reign, intituled "An Ordinance to regulate the proceedings in the courts of civil Judicature and to establish trials by Jury in actions of a commercial nature and personal wrongs to be compensated in damages, with such additional regulations as are expedient and necessary;" It is amongst other things enacted and declared, "That the provincial court of appeals shall have authority to make rules and orders, to regulate, effectuate and accelerate the proceedings in all causes of appeal for the advancement of Justice and to prevent unnecessary delays and expence in the same." And whereas also in and by the provincial statute made and passed in the forty-first year of the reign of oursaid Sovereign Lord GEORGE the THIRD, intituled, "An act to amend certain forms of proceeding in the courts of civil Judicature in this province and to facilitate the administration of Justice," It is amongst other things enacted and declared, "That the different courts of civil Judicature in this Province shall have power and authority to make and establish orders and rules of practice in the said courts in all civil matters, touching all services of process, execution and returns of all writs, proceedings for bringing causes to issue, as well in term time, as out of term, and other matters of regulation within the said courts." It is therefore ordered by the court of our Lord the King now here as follows, That is to say :—

Preamble,

IT IS ORDERED,

Court to be opened at 10 o'clock.

I. That on the first day of each term the court be opened at the hour of ten in the forenoon, and at the same hour of ten in the forenoon of each succeeding day in each term, not being a Sunday or a holiday.

King's Counsel &c to be habited in black &c.

II. That the King's Counsel and all Barristers who do or shall practice in this court and the clerk of this court do appear when in court habited in black, and in such robes and bands as are worn by the King's Counsel and Barristers and by the Clerks of His Majesty's courts in Westminster Hall respectively, with their hair in bags as heretofore hath been used; and that no King's Counsel or Barrister be heard in any cause who is not habited as herein is directed.

Office of the Clerk to be kept in the courthouse of Quebec, records not to be thence removed without order.

III. That the office of the clerk of this court be kept in the court house of the district of Quebec in the room therein assigned and now used for that purpose. That all records, registers, books and papers of and belonging to this court be kept at all times for safe custody in the said Court house, and be not thence removed or taken away, upon any pretence whatsoever, by any person or persons whomsoever without the order of this court or some one of the Judges thereof in writing; for the proper use of this court or of such Judge or Judges.

Office hours appointed, attendance to be given and Attorneys &c. to have access to the records during Office hours.

IV. That the office of the clerk of this court during every subsequent term be open from the hour of nine in the morning until the hour of five in the afternoon of every day, Sundays and holidays excepted, and during every subsequent vacation from the hour of ten in the morning until the hour of two in the afternoon of every day, Sundays and holidays excepted. That during all such office hours regular and continued attendance be given in the said office by the clerk of this court or by some sufficient person on his behalf, and that the King's Counsel, Barristers and Attorneys who shall be concerned for any party or parties appellant or respondent in any suit depending in this court during all such office hours as aforesaid, shall have free access to the record and proceedings in such suit transmitted from the court below, with free liberty to peruse and examine such record and proceedings when and so often as they shall see fit, and to take copies by themselves or by their clerks of such parts and of so much thereof as they shall think necessary or expedient, without fee or reward of any kind to the clerk of this court; save and except the fee of 11s 8d heretofore and now allowed to him for communication of the record.

Schedule of suits to be kept by the Clerk & laid before the Court on the first day of each term.

V. That a schedule of all suits depending in this court specifying in each suit the names of the parties, appellant and respondent, the date of the writ of appeal, the date of the return thereof, if made, and the default of such return, if not made; the names of the Attorneys who shall have fyled appearances for the appellant and respondent, respectively, the dates of such appearances and of each and every of them; and the default of every such appearance if not fyled; the days on which the reasons of appeal and answers thereunto (if fyled) have been fyled respectively; the days on which the cases of the ap-

pellant

pellant and of the respondent, if fyled, have in like manner been fyled, and the default of such reasons, answers and cases respectively, if not fyled; the day on which such suit, if inscribed upon the roll for hearing hath been so inscribed, and the day which in consequence of such inscription is fixed for the hearing of such suit, shall be made and kept by the clerk and laid before this court upon the first day of each succeeding term, and such schedule shall be deemed and taken to be in all suits therein mentioned an official certificate by the clerk of this court of the state of such suits, and of each of them respectively upon the first day of the term upon which such schedule shall be so laid before this court, and to be complete evidence to all intents and purposes of the several matters therein set forth, and contained, and of each and every of them.

VI. That every Attorney of this Court before the first day of March next shall make and fyle with the clerk of this Court, under his signature an entry in writing of his name and place of abode, and every Attorney hereafter to be admitted shall upon his admission make and fyle a like entry; and as often as any such Attorney shall change his place of abode he shall make and fyle a like entry of such change, and all Pleadings, Summonses, Orders, Rules and Notices which do not require personal service, shall be deemed and taken to be sufficiently served, on such Attorney, if a copy thereof be left at the place last entered as aforesaid by such Attorney, with any grown person resident at or belonging to such place; and if any Attorney shall neglect to make such entry, he shall be deemed and taken to be resident without the limits of the City of Quebec, and bound to constitute an agent as herein-after is directed.

Every Attorney to fyle an entry of his name and place of abode, penalty for neglect, service of rules &c. at such place of abode when sufficient.

VII. That every Attorney who not being resident within the limits of the City of Quebec shall intend hereafter to practice in this Court shall, by an appointment in writing, under his signature, constitute some other Attorney of this Court, resident within the limits of the said City of Quebec his agent, which appointment shall specify the place of such agent's abode, shall be subscribed or indorsed with an acceptance of such appointment by such agent under his signature, and shall be fyled in the Office of the Clerk of this Court and by him be recorded in the register; and all pleadings, Summonses, Orders, Rules, Judgments and Notices which shall be served, as herein before ordered in cases of service upon Attorneys, upon any agent so appointed shall be deemed and taken to be well and sufficiently served upon the Attorney who shall have so appointed such agent, and upon the party or parties for whom such Attorney in the suit or suits to which such pleadings, Summonses, Orders, Rules, Judgments and Notices respectively relate, shall have appeared, unless the appointment of such agent shall have been superseded by the appointment of another agent made in like manner, with leave of the Court upon motion for that purpose, first had and obtained, or the matter be such as shall require a personal service thereof upon such party or parties; and from and after the first day of March next, no Attorney who shall be resident without the limits of the City of Quebec shall sue out any writ of appeal or otherwise practice as an Attorney of this Court in

Attorneys resident out of the limits of Quebec to constitute agents, penalty for neglect, service of rules &c. on agents when sufficient.

any manner whatsoever, until such appointment of an agent as is herein-before directed shall be made, fyled and registered as herein-before is ordered. And all suits now pending in this Court undetermined in which any Attorney not resident within the limits of the City of Quebec shall have appeared for any party or parties, appellant or appellants therein and shall not, on or before the said first day of March next fyle such appointment of an agent, as herein before directed, shall be deemed and taken to be deserted by such appellant or appellants, and thereupon dismissed with costs accordingly upon the first or any subsequent day in term thereafter, upon motion for that purpose on the part of the respondent or respondents or either of them or by the Court Ex Officio, without such motion as may happen; and all suits now pending in this Court undetermined in which any Attorney not resident within the limits of the City of Quebec shall have appeared for any party or parties, respondent or respondents therein and shall not on or before the said first day of March next fyle such appointment of an agent as is herein before directed, shall be deemed and taken to be in the same plight and condition as if no appearance for such respondent or respondents had ever been entered, and such course shall and may be had thereupon as in suits *ex parte* is by law directed.

Postage of the record to be deposited upon issuing the writ in Appeal from Montreal and Three-Rivers.

VIII. That no writ of appeal from any interlocutory or definitive judgment given in the Court of King's Bench for the district of Montreal or in the Court of King's Bench for the district of Three-Rivers, shall issue in any suit until the party appellant in such suit shall have deposited in the hands of the Clerk of this Court the sum of four pounds to defray the postage of the record in suit; and the overplus if any there be, shall by the Clerk of this Court be paid to such appellant upon demand.

Writs of Appeals when to be tested.

IX. That every writ of appeal as well from an interlocutory as from a definitive judgment to be hereafter issued, shall be tested upon the date on which the same shall issue; and every such writ shall be returnable in fifteen days from the day of the test thereof.

Prothonotaries neglecting or refusing without lawful cause, to return Writs of Appeal guilty of contempt.

X. That every Prothonotary who without lawful cause shall refuse or neglect to make return of any writ of appeal which shall be issued in any suit and by him be received within the period thereby allowed for the return thereof shall be deemed and taken to be guilty of a contempt of this Court.

Writ of appeal not to issue without an appearance for the appellant and a praecipe.

XI. That no writ of appeal from any definitive or interlocutory Judgment sued out by an Attorney of this court shall issue in any suit until an appearance for the appellant or appellants in such suit and a praecipe for such writ under the signature of such Attorney or of his agent in his behalf shall be fyled in the office of the clerk of this court; and no other appearance for such appellant or appellants shall be required or received except in the case of a change of Attorneys upon motion for that purpose, and the order of this Court thereupon.

Every writ of

XII. That every writ of appeal as well from an interlocutory as from

from a definitive Judgment, which shall hereafter be issued shall be signed by the Attorney of this Court upon whose præcipe such writ shall issue or by the agent of such Attorney on his behalf, if such Attorney be not resident within the limits of the City of Quebec.

appeal to be signed by the Attorney for the appellant or his agent.

XIII. That personal service of any writ of appeal upon the Attorney who has appeared in the Court below for the respondent or respondents, or in default of such service upon the respondent or respondents at his, her or their domicile or, in default of such domicile, upon the Attorney ad negotia upon record in such suit, shall be held and taken to be a good and sufficient service of such writ, with respect to such respondent or respondents so served in such cases respectively.

What service of a writ of appeal shall be sufficient.

XIV. That the writs, pleadings, exhibits and other paper writings which shall form and compose any record to be hereafter transmitted to this Court shall be marked at the head of each respectively by the Prothonotary of the Court transmitting such record, separately numerically, and progressively from number one to the number indicating the entire number of such writs, pleadings, exhibits and other paper writings, and that an index of reference to the whole and to each, by number, title and description under the signature of such Prothonotary be by him annexed to such record.

Papers composing a record to be numbered and accompanied with an index.

XV. That the respondents in every suit and appeal depending in this Court and each of them do file their appearance in such suit in the Office of the Clerk of this Court, on or before the eighth day next after the day of the return of the Writ of Appeal in such suit issued, and in default thereof such respondent or respondents shall be precluded from any appearance in such suit, and thereupon this Court will proceed to hear the matter of such suit and of the appeal therein depending ex parte on the part of the appellant only, and proceed to judgment therein without the intervention of such respondent or respondents.

Appearance for the respondent, when to be filed, penalty for neglect.

XVI. That the reasons of Appeal in every suit be filed within eight days after the return of the writ and the transmission of the record and proceedings, without any motion or other application for that purpose, and if the reasons of appeal shall not be so filed, it shall be competent to the respondent's Attorney and to his agent, on his behalf, by notice in writing under his signature directed to the Attorney for the appellant in such suit to demand the reasons of Appeal, and if the reasons of appeal within four days after service of such notice and demand, shall not be filed, upon motion of the respondent by his counsel founded upon due proof of the service of such notice and demand, and a certificate of the Clerk of this Court that such reasons of appeal were not so filed, such suit and the appeal therein depending shall be dismissed with costs.

Reasons of appeal when to be filed if demanded, penalty for neglect.

XVII. That every suit and appeal in which the reasons of appeal shall not be filed within one Calendar month from the day of the return of the writ of appeal issued in such suit shall be deemed and taken to be deserted by the appellant or appellants in such suit so neglecting

Reasons of appeal when to be filed, if not demanded; penalty for neglect

to

to file such reasons of appeal, and thereupon dismissed with costs accordingly, upon the first (or any subsequent) day in term thereafter, upon motion for that purpose on the part of the respondent or respondents or either of them or by the Court Ex Officio without such motion, as may happen.

Answers when
to be fyled, if de-
manded, penalty
for neglect, issue
how completed.

XVIII. That the issue in every suit in appeal shall be completed by the reasons of Appeal and the answers to such reasons of appeal, and that the answers to the reasons of appeal be fyled in every suit within four days from the day on which the reasons of appeal in such suit shall be fyled; and if the answer to such reasons of appeal shall not be so fyled, it shall be competent to the appellant's Attorney and to his agent, on his behalf, by notice in writing, under his signature, directed to the Attorney for the respondent in such suit, to demand the answers to the reasons of Appeal, and if such answers within two days after service of such notice and demand, shall not be fyled, such respondent upon motion of the appellant by his counsel founded upon due proof of the service of such notice and demand, and a certificate of the clerk of this court that such answers were not so fyled, shall be wholly precluded from fyling answers to such reasons of appeal and thereupon this court will proceed to hear the matter of such suit and of the appeal therein depending, ex parte on the part of the Appellant only, and proceed to judgment therein, without the intervention of such respondent.

Answers when
to be fyled, if not
demanded, pen-
alty for neglect.

XIX. That every suit in which the answers to the reasons of appeal shall not be fyled within ten days from the day on which the reasons of appeal in such suit shall be fyled, shall be deemed and taken to be deserted by the respondent and respondents in such suit so neglecting to fyle such answers, and such respondent and respondents wholly precluded from fyling answers to such reasons of appeal and thereupon this court will proceed to hear the matter of such suit and the appeal therein depending, ex parte, on the part of the Appellant only and proceed to Judgment therein without the intervention of such respondent.

Copies of all
pleadings to be
served, penalty
for neglect.

XX. That a copy of each pleading which shall be fyled in any suit depending in this court duly certified under the signature of the Attorney by whom the same shall be fyled or his agent, shall be served upon the Attorney of the adverse party in such suit or his agent, upon the day on which such pleading shall be fyled, and in default thereof such pleading shall not be deemed or taken to be fyled, and such course thereupon shall and may be had in such suit as might be pursued if such pleading had never been fyled.

Cases, where
and when to be
fyled, penalty for
neglect.

XXI. That the cases of the Appellant and respondent in each suit and appeal to the number of six on each side shall from henceforth be fyled by the Appellant and respondent respectively in the office of the clerk of this court within ten days after the fyling of the reasons of appeal and be by him distributed to the members of this court who shall sit for hearing of such suit and appeal, and each suit and appeal in which the Attorney for the appellant shall not so fyle his cases shall be

be deemed and taken to be deserted by such appellant, and thereupon dismissed accordingly upon the first or any subsequent day in term thereafter, upon motion for that purpose on the part of the respondent or respondents, in such suit and Appeal, or either of them or by the court Ex Officio without such motion, as may happen, with costs when the respondent shall have fyled his cases, and without costs to either party when the respondent shall not have fyled his cases; and each suit and appeal in which the Appellant shall have so fyled his cases, and in which the respondent shall not have so fyled his cases, shall be deemed and taken to be deserted by such respondent and the Appellant heard therein Ex parte, without the intervention of the respondent, his counsel or Attorney, and such order and decree thereupon made, as to law and justice shall appertain, without costs in any such case to such respondent.

XXII. That when and so soon as the answers to the reasons of Appeal in any suit and appeal shall be fyled, it shall be competent to either party in such suit having fyled their cases to set down such suit for hearing upon such day in term as such party shall see fit; by inscribing such suit on a roll for hearing to be kept by the Clerk of this Court for that purpose, in vacation or in term, and two days notice thereof being served upon the adverse party, such suit and appeal, upon proof of the service of such notice, shall come on to be heard upon the day so fixed or as soon thereafter as counsel can be heard. And no suit and appeal so fixed for hearing shall be put off without a special application to the court to be made before the day so fixed (if any other than the first day of term) upon some sufficient ground to be authenticated by affidavit after one day's notice to the adverse party and due proof of the service of such last mentioned notice.

Appeals, when to be set down for hearing upon issue joined by the parties.

XXIII. That when and so soon as the respondent or respondents in any suit, as the case may be, shall be precluded from appearing or having appeared shall be precluded from fyling answers in such suit, it shall be competent to the appellant or appellants in such suit having fyled his or their reasons of Appeal and cases to set down such suit for hearing upon such day in term as he or they shall see fit by inscribing such suit on the roll for hearing, without notice thereof to the respondent or respondents so precluded, or to any or either of them, and no suit so fixed for hearing shall be put off without a special application to the Court to be made before the day so fixed (if any other than the first day of term,) upon some sufficient ground authenticated by affidavit.

Appeals when to be set down for hearing ex parte by the Appellant.

XXIV. That all suits and appeals which shall not be set down for hearing upon the motion of the appellant or of the respondent in each suit and Appeal respectively, on or before the last day of the term next after the day upon which the reasons of Appeal in such suit and appeal shall be fyled shall forthwith by the Clerk of this Court be inscribed upon the roll for hearing in succession, according to the days upon which the reasons of appeal in each such suit and appeal respectively shall be fyled, and such suits and appeals so inscribed and each of them shall thenceforth be and remain, set down for

Appeals when to be set down for hearing by the Court.

for hearing until heard or otherwise disposed of, and if not otherwise disposed of shall be called on and come on to be heard upon the first and subsequent days of the then next ensuing term and terms in the order in which they shall be so inscribed, and no suit or appeal so inscribed upon the roll for hearing shall be taken therefrom, nor shall the hearing thereof be put off without a special application to the Court upon some extraordinary and sufficient ground to be authenticated by affidavit after two days notice to the adverse party, and due proof of the service of such notice.

Order of hearing for causes set down to be heard.

XXV. That all suits which by order of the Court ex officio or upon motion shall be set down for hearing on any particular day shall be called on and heard upon such day (or as soon thereafter as counsel be heard) according to the dates of such orders respectively and such suit so set down being heard, the suits inscribed upon the roll for hearing by the clerk of this court under and by virtue of the next preceding rule of practice and not otherwise disposed of shall then be called on and heard as therein is directed.

Course to be pursued when the appellant and respondent respectively, do not appear on the day fixed for the hearing or are not then ready to proceed.

XXVI. That every suit and appeal fixed for hearing, in which (such suit being called on) the appellant and respondent do not appear or are not ready to proceed shall be dismissed without costs to either party. That every suit and Appeal fixed for hearing, in which (such suit being called on) the appellant doth not appear, and the respondent doth appear, shall be dismissed with costs to such respondent, and that every suit and Appeal fixed for hearing in which (such suit being called on) the respondent doth not appear and the appellant doth appear and be ready to proceed, shall be heard on the behalf of such appellant so appearing Ex parte, and such order and decree thereupon made as to law and justice shall appertain, without costs in such case to such respondent.

Counsel how many may be heard.

XXVII. That, in all suits which shall hereafter be heard in this Court, no more than two counsel shall be heard, in opening or in answer, and one only in reply.

Motion upon special matters not appearing upon the record, to be founded on affidavit and two days notice.

XXVIII. That when and so often as this Court shall be moved in any suit upon any special matter not appearing upon the record or proceedings fyled in such suit, such special matter shall previously be authenticated by affidavit duly made before one of the Judges of this Court, and a copy thereof and two days notice of such motion shall be duly served upon the opponent or opponents, if such there be in such suit, of the party making such motion. And no such motion shall be made or received until such affidavit of such special matter and an affidavit of such service of such notice as aforesaid shall be read and fyled.

All facts essential to the support of Motions upon the complaints of diminution, &c. to be authenticated by

XXIX. That in like manner when and so often as this Court shall be moved in any suit on the part of the appellant or respondent upon any suggestion or complaint of diminution or of an irregular, imperfect or undue return in any respect or upon any application to dispense with, change or moderate security, all facts essential to

the

the support of such motions or either of them not appearing upon the record or proceedings fyled in such suit shall previously be authenticated by affidavit duly made before one of the Judges of this Court and a copy thereof and two days notice of such motion shall be duly served upon the opponent (or opponents, if such there be in such suit) of the party making such motion. And no such motion shall be made or received until such affidavit of such facts (if such there be) and an affidavit of such service of such notice as aforesaid shall be read and fyled. Nor shall any such motion be made and received in any suit (in which the records and proceedings in such suit shall have been transmitted by the Court below,) at any time after the fyling of the reasons of appeal by such appellant or of the answers to the reasons of Appeal by such respondent respectively, those cases excepted, in which the right of making such motions upon the face of such reasons, or answers respectively shall be expressly saved and reserved.

affidavit, two days notice of such motions to be given, and no such motions to be received after the fyling of the reasons or answers respectively unless the right to make such motion be therein reserved.

XXX. That when and so often as this Court shall be moved in any suit for an appeal from any interlocutory Judgment, such motion shall be accompanied with copies of such interlocutory Judgment and of the pleadings fyled in such suit, together with copies of all exhibits fyled and of all proceedings had in such suit in the Court below from the commencement thereof until the entry of such Judgment in any way essential to the support of such motion; And every such motion which shall not be accompanied with such copies duly certified under the Signature of the Prothonotary of the Court below, shall be dismissed with costs, and no such motion shall be made or received at any time whatever after the first day of the term of this Court next after the day of the date of such interlocutory Judgment, the April term of this Court excepted, during which any such motion shall be received until the sixth day of the term inclusive.

Every motion for an appeal from an interlocutory judgment to be accompanied with copies of the pleadings and of all exhibits and proceedings essential to the support of the motion. Such motions when to be made.

XXXI. That every writ of appeal which shall be granted or awarded from any interlocutory Judgment shall be sued out within two days after the date of the rule or order of this Court by which such writ shall be so granted or awarded and in default thereof such writ shall not issue, and such Rule or Order shall no longer operate as a supersedeas of all or any proceedings in such suit, in the Court below.

Every writ of appeal from an interlocutory judgment to be issued within two days after the allowance thereof.

XXXII. That all Pleadings, Notices, Summonses, Rules, Orders and Judgments and all other matters of which service is or shall be required upon any party in any suit depending in this Court shall be served upon the Attorney who in this Court shall have appeared for such party or his agent, and in default of such appearance, upon the Clerk of this Court at his Office, to be by him fyled with the proceedings in such suit, those instances excepted in which personal service upon such party is by law, by some Rule or Order of practice, or by some especial Rule or Order made in such suit, expressly directed.

Pleadings, notices, &c. how to be served.

XXXIII.

Delays, &c.
how to be com-
puted.

XXXIII. That in all computations of time or delay upon any Writ, Summons, Rule, Order or Judgment of this Court, or upon the fying or service of any such Writ, Summons, Rule, Order or Judgment or of any pleading or notice and generally upon and in all proceedings whatsoever not otherwise particularly provided for, the day on which such Writ, Summons, Rule, Order or Judgment shall be made, or upon which the fying or service of any such Writ, Rule, Order, Judgment, or of any such Summons, Pleading or Notice shall be had, or upon which such other proceedings as aforesaid shall in like manner be had, shall not be reckoned or counted to be one, but every other day to which such computation of time shall refer Sundays and Holidays not excepted, shall be reckoned and counted to be one, and no fractions of time shall in any such computation be made or allowed, it being nevertheless provided that in all cases, in which any period allowed by any Writ, Summons, Rule, Order, Rule of Practice or Judgment of this Court, shall expire upon a Sunday or Holiday, such period shall ipso facto stand enlarged until the then next juridical day.

Copies of judgments in appeal, to be transmitted with the record to the Court below.

XXXIV. That a copy of each and every judgment in consequence or by virtue whereof any record in any suit depending in this Court shall be remitted to any Court below, shall be annexed to such record and therewith remitted under the certificate and signature of the Clerk of this Court.

These rules extended to all suits in Error.

XXXV. That the rules and orders of practice herein before provided for suits in appeal, shall be deemed and taken respectively to extend to all suits in error.

Fees to be allowed to Counsel, &c.

XXXVI. That the several fees by the Ordinance made and passed in the 20th year of the reign of our present Sovereign Lord GEORGE the THIRD, intituled, "An Ordinance for the regulation and establishment of fees" allowed to the Counsel, Attorneys and Officers of the Court of Appeal for services by them done and performed, shall continue and be allowed to the Counsel, Attorneys and Officers of this Court for the like services when done and performed by them respectively until a table of fees shall be made and published.

Former Rules of practice rescinded.

XXXVII. That all rules and orders of practice heretofore made by the Provincial Court of Appeals for the late Province of Quebec and adopted by this Court and all rules and orders of practice heretofore made by this Court be and the same and each and every of them are hereby rescinded and annulled.

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